

Subpart 37.4—Nonpersonal Health Care Services

37.400 Scope of subpart.

37.401 Policy.

37.402 Contracting officer responsibilities.

37.403 Contract clause.

AUTHORITY: 40 U.S.C. 486(c); 10 U.S.C. Chapter 137; and 42 U.S.C. 2473(c).

SOURCE: 48 FR 42365, Sept. 19, 1983, unless otherwise noted.

37.000 Scope of part.

This part prescribes general policy and procedures for acquiring services by contract, and includes but does not limit coverage to only those services to which the Service Contract Act of 1965 applies (see 37.107). It distinguishes between contracts for personal services and those for nonpersonal services and includes special conditions to be observed in acquiring advisory and assistance services. Dismantling, demolition, or removal of improvements is covered in subpart 37.3. This part does not regulate the obtaining of services by direct appointment, under normal civil service employment procedures, or by cooperative agreement.

[48 FR 42365, Sept. 19, 1983, as amended at 53 FR 43392, Oct. 26, 1988]

Subpart 37.1—Service Contracts—General

37.101 Definitions.

Child care services means child protective services (including the investigation of child abuse and neglect reports), social services, health and mental health care, child (day) care, education (whether or not directly involved in teaching), foster care, residential care, recreational or rehabilitative programs, and detention, correctional, or treatment services.

Nonpersonal services contract means a contract under which the personnel rendering the services are not subject, either by the contract's terms or by the manner of its administration, to the supervision and control usually prevailing in relationships between the Government and its employees.

Personal services contract means a contract that, by its express terms or as administered, makes the contractor

personnel appear, in effect, Government employees (see 37.104).

Service contract means a contract that directly engages the time and effort of a contractor whose primary purpose is to perform an identifiable task rather than to furnish an end item of supply. A service contract may be either a nonpersonal or personal contract. It can also cover services performed by either professional or nonprofessional personnel whether on an individual or organizational basis. Some of the areas in which service contracts are found include the following:

(a) Maintenance, overhaul, repair, servicing, rehabilitation, salvage, modernization, or modification of supplies, systems, or equipment.

(b) Routine recurring maintenance of real property.

(c) Housekeeping and base services.

(d) Advisory and assistance services.

(e) Operation of Government-owned equipment, facilities, and systems.

(f) Communications services.

(g) Architect-Engineering (see subpart 36.6).

(h) Transportation and related services (see part 47).

(i) Research and development (see part 35).

[48 FR 42365, Sept. 19, 1983, as amended at 53 FR 43392, Oct. 26, 1988; 59 FR 67051, Dec. 28, 1994]

37.102 Policy.

(a) Agencies shall generally rely on the private sector for commercial services (see OMB Circular No. A-76, Performance of Commercial Activities and subpart 7.3).

(b) Agencies shall not award a contract for the performance of an inherently governmental function (see subpart 7.5).

(c) Non-personal service contracts are proper under general contracting authority.

[61 FR 2630, Jan. 26, 1996]

37.103 Contracting officer responsibility.

(a) The contracting officer is responsible for ensuring that a proposed contract for services is proper. For this purpose the contracting officer shall—

(1) Determine whether the proposed service is for a personal or nonpersonal